Judge Alfred H. Bennett

THE ATTACHED MUST BE SERVED WITH THE SUMMONS AND COMPLAINT OR REMOVAL PAPERS

Your attention is directed to the Court Procedures and attachments, which are applicable to cases assigned to Judge Alfred H. Bennett.

Plaintiff must serve these materials, and the Order for Conference And Disclosure Of Interested Parties on all defendants with the summons and complaint. A party removing a case to this Court has the same obligations as a plaintiff filing an original complaint. Proof reflecting service of these materials must be filed with the Clerk. A Form of Certificate for Use in removed cases is attached.

In addition, parties may, at their option, proceed with civil cases before Magistrate Judge Francis Stacy. Attached is a Consent Form for use by parties who consent to proceed before Magistrate Judge Francis Stacy. Please follow the instructions in the accompanying "Notice of the Right to Try a Civil Case before a Magistrate Judge."

The accompanying procedures are to be used in conjunction with the Local Rules for the Southern District of Texas, not as a substitute for them. The Local Rules of this District can be obtained on the District website at www.txs.uscourts.gov. The Court requires strict compliance with these Local Rules.

ALL inquiries regarding ANY case, please contact:

Lisa Edwards, Case Manager
To United States District Judge Alfred H. Bennett
United States District Court
515 Rusk St, Room 8613
Houston, TX 77002
Telephone: 713-250-5850
Email: Lisa_Edwards@txs.uscourts.gov

Court Procedures and Practices

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COURT PROCEDURES AND PRACTICES

A. GENERAL PROCEDURES

1. Contact with Court Personnel
Case-related inquiries regarding any case should be made by e-mail to the Case Manager, Lisa Edwards, at Lisa_Edwards@txs.uscourts.gov. At the Court's direction, law clerks may contact counsel; however, they will not discuss matters other than the subject of the call. Lawyers must not call the Court's law clerks unless they are returning a call.

2. Electronic Filing
The Court requires that parties file documents through the District Court's Case Management/Electronic Case Filing ("CM/ECF") System. *See* Southern District Local Rule 5.1 and Administrative Procedures for CM/ECF (as amended and available at www.txs.uscourts.gov).

3. Appearances
An attorney who appears at a hearing or conference shall:

(1) be familiar with the case and be prepared to argue any pending motions (including at the scheduling conference);

(2) have authority to bind the client; and

(3) be in charge for that appearance.

All counsel wishing to appear at a conference or hearing by telephone shall send a request to the Case Manager by email at least three business days prior to the hearing. The Court prefers for counsel to attend in person, especially for initial appearances. As such, leave for appearing at a conference or hearing by telephone will only be granted in special circumstances. Failure to appear when notified of a setting may subject the attorney and/or his or her client(s) to sanctions.

4. Emergencies
If both sides agree to an emergency/expedited hearing, call the court clerk and set up a phone conference or hearing with the judge. If only one side feels it is an emergency, file a motion for emergency/expedited hearing. File it directly with the court clerk who will then give it to the judge for consideration of a hearing date.

5. Young Lawyers
The Court strongly encourages litigants to be mindful of opportunities for young lawyers (i.e., lawyers practicing for less than seven years) to conduct hearings before the Court, particularly for motions where the young lawyer drafted or contributed significantly to the underlying motion or response. The Court believes it is crucial to provide substantive speaking opportunities to young lawyers, and that the benefits of doing so will accrue to young lawyers, to clients, and to the profession generally. Thus, the Court encourages all lawyers practicing before it to keep this goal in mind.

6. Courtesy Copies
The court will request courtesy copies if needed.

When requested, courtesy copies may be mailed to the Court at the following address:

Case Manager to Judge Alfred H. Bennett
United States District Court
515 Rusk Street, Room 8613
Houston, Texas 77002

7. Font
Filings must be in 12-point font.

B. **PRETRIAL PRACTICE**

1. Scheduling Conferences
Rule 16 Conferences are ordinarily scheduled approximately three months after the filing of the case to allow the full time period for service. In cases in which service is prompt, this often results in a two or three month dead period in the case. To prevent this delay, parties are allowed to commence discovery once service is effectuated and prior to the scheduling conference. The parties may agree on additional deadlines for completion of pretrial matters and bring a proposed docket control order with them to the initial pretrial conference. *See* Local Rule 16.1.

The Court seeks to set all but the most complex cases for docket call within one year of the scheduling conference.

2. Expedited Trial Alternative
In cases that do not require substantial discovery, the Court provides the parties the option of agreeing to an abbreviated scheduling order and expedited trial. If the parties agree to forgo dispositive motions and formal discovery, the Court will set a date for a jury or bench trial within three months of the pretrial conference. Counsel should contact the case manager as soon as possible if the parties seek this option so the Court can set a trial date. An expedited trial is a much less expensive alternative for cases in which the parties already possesses at the time of filing most of the information they need. And agreeing to an expedited bench trial with no appeal is a less expensive alternative to arbitration.

3. Continuances
The parties may agree to extensions of discovery deadlines without seeking court approval, so long as the extension does not affect the dispositive motion deadline or docket call date. To continue the dispositive motion deadline or docket call date, the parties must submit a motion detailing a reasonable explanation that takes into consideration the current age and status of the case and whether opposing party is prejudiced by further delay. Agreed motions for continuance are not binding on the Court and should also include an explanation as to why the parties feel a continuance is necessary.

4. Discovery Disputes
The Court expects that the parties will make every effort to resolve all discovery issues absent court intervention. When those attempts prove unsuccessful, a conference with the Court may be requested. The complaining party should file a letter not to exceed two pages explaining the nature of the dispute and include the date, time and place of the parties' prior out-of-court discovery or scheduling discussion(s) and the names of all counsel participating therein. The Court will then determine the need for briefing and/or a conference on the matter.

Should additional briefing be allowed, such briefing and any response should not exceed 10 pages except on leave of the Court. The initial letter as well as all additional briefing should also include a proposed order.

5. Motion Practice
A. A party should not file a motion and separate "Memorandum of Law." The motion itself should include the party's argument supporting the relief it seeks.

B. Except for dispositive motions, all motions should include a proposed order, pursuant to Local Rule 7.1(C). An exemplar order can be found at the bottom of this document. Please use the format featured in the example for the correct styling of the signature block.

C. Nondispositive motions will be struck if they do not include Certificate of Conference. *See* Local Rule 7.1(D) (1).

D. If a party wishes to file a pleading, motion, or exhibit under seal, the party must file a motion to file under seal, which will then be considered by the Court and admitted under seal if the Court deems such filing to be necessary.

E. Absent leave of Court for extended briefing, any brief or memorandum shall be limited to twenty (20) pages. Per the local rule, responses should be filed within 21 days unless the Court orders an expedited response.

F. No reply to Response will be allowed without leave of the Court. Should a party's request be granted, replies should be filed within 7 days of the date the response is filed. A reply must not exceed 5 pages.

6. Settlements
If the parties are seriously contemplating settlement, they will advise the Court by contacting the case manager in writing requesting the Court postpone consideration of pending motions until the parties advise the Court as to whether a settlement has been reached. If the parties succeed in settling the case, they should inform the Court immediately. If the parties succeed in settling the case, they should inform the Court immediately in writing, by letter, or by email.

Upon receipt of parties' announcement of settlement, the court will enter a 30 or 60-day conditional order of dismissal, which permits a party to move to reopen the case if final settlement cannot be completed within the allotted time.
Upon settlement of a suit involving a minor plaintiff, counsel must jointly move for appointment of a guardian *ad litem* if there is potential conflict of interest between the parent(s) and the

minor. The parties may (but are not required to) submit the names of proposed *ad litems* upon whom they agree. The Court will consider any names submitted, but may appoint as guardian *ad litem* a person whose name has not been submitted by counsel.

7. Default Judgement
A party seeking a default judgment shall file a motion file a Motion for Default Judgment with the Court. The party seeking the default judgment must then notify the opposing party(ies) by regular and certified mail (return receipt requested).

If no hearing is necessary, the Court will rule on the Motion for Default Judgment twenty-one (21) days after the motion is made. If a hearing is necessary, the parties should contact Lisa Edwards, the case manager, to set a date for a hearing with any necessary witnesses prepared to testify at the hearing. However, if damages are liquidated, no hearing will be necessary if the parties submit the proper evidence with the motion.

Entry of default will be entered by the Court at the time the default judgment is granted. Accordingly, it is not necessary to seek an entry of default from the Clerk of the Court.

C. **TRIAL PRACTICE**

1. Trial Settings
The docket control order will set the case for docket call, which will take place, typically on a Friday at 1:30 PM. If your case will be tried the week of docket call, the case manager will notify you at least a week in advance. Otherwise, expect your case to be set for trial later that month. Absent an order to the contrary, parties do not need to submit any pretrial filings prior to the docket call and the Court will set a date for those submissions when it sets a trial date and final pretrial conference during docket call. A pending dispositive motion does not cancel the docket call setting; in such cases, counsel is expected to appear and be prepared to discuss the motion and a trial setting.

2. Pretrial Filings
The parties should file a Joint Pretrial Order. In addition, each party should file the following: Exhibit List, Witness List, Proposed Voir Dire Questions, Proposed Jury Instructions, Motions in Limine, and Deposition Designations and Objections. The parties must confer prior to filing Motions in Limine and note which requests are unopposed. Motions in Limine should not be "form" motions, but rather should be specific to the case.

At least one day prior to the pretrial conference, each party shall submit to the Court (1) a tabbed binder containing these filings and (2) a separate binder containing its exhibits. All pretrial matters will be heard just prior to jury selection

3. Exhibits
To make efficient use of jurors' time, the Court follows Local Rules 44 and 46 requiring pretrial objections to the authenticity and admissibility or exhibits. Counsel should be reminded that Rule 11 applies to authenticity objections. The Court will typically address evidentiary objections at the pretrial conference and seeks to pre-admit as many exhibits as is reasonable under the circumstances. Attorneys should use **NUMBERS**, not letters, for exhibits.

4. Jury Selection
Jury selection is typically set for the afternoon. The Court will provide some background information and conduct a brief preliminary examination. Lawyers will then generally be allowed 30-60 minutes per side, depending on the nature and complexity of the case. The Court typically selects eight jurors for civil cases, though it may sit more in lengthier cases. The first afternoon will typically only be used to select the jury, with opening statements and testimony commencing the next morning.

The Court will allow for some facts during *voir dire* to put examination into perspective, but no opening and no argument.

There will be an opportunity to question jurors individually at the conclusion of the Court's and attorney's question, but attorneys should not rely on this time to ask broad questions, only those relating specifically to an issue raised during *voir dire*.

The Court will allow time for any Batson challenges.

5. Hours
The Court typically holds trial from 9:00 AM-5:00 PM, Monday-Thursday. For trials expected to last more than two weeks, the Court will consider Friday sessions. The Court will take an afternoon and morning break in addition to the lunch hour.

6. Depositions
The Court will accept the parties' agreement to use a deposition at trial even though the witness is available. Counsel should provide the designations and objections with the pretrial filings. The Court will attempt to rule on objections at the pretrial conference if necessary, but these are usually ruled on during trial.

7. Courtroom Protocol

A. Be Punctual;

B. Stand when addressing the Court;

C. No Blackberry, iPhone, etc. use in the well of the Court;

D. No drinks besides water in the well of the Court.

8. Trial Decorum
The Court is participating in a jury trial innovation project that requires using one or two of the following practices in each trial: (1) using a timing order; (2) instructing the jury on the law prior to trial; (3) allowing jurors to ask questions; and (4) allowing attorneys to make mini-summations during trial. The Court will address these practices during the pretrial conference and seek input from counsel about which practices are most suitable for their case. More information about this project is available on the Court's website.

Counsel may question witnesses while sitting or standing. Counsel should ask to approach the witness the first time, but afterwards can move freely between the witness and counsel table when questioning so requires.

Counsel will address adult witnesses as "Mr." or "Ms."

Barring exceptional circumstances, each party is given only two opportunities to question a witness, i.e., direct and redirect, or cross and recross.

9. Courtroom Technology
Counsel should consult with the case manager about technology needs at least one week in advance of trial.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PLAINTIFF NAME,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. 4:15-CV-XXXX
	§	
DEFENDANT NAME,	§	
	§	
Defendant.	§	

ORDER

Insert the text of the proposed order here. Below is the proper form of signature block for proposed orders.

It is so ORDERED.

_____ _____

Date

The Honorable Alfred H. Bennett
United States District Judge